

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
Remarkable Healthcare of § Case No. 24-40605
Carrollton, LP. et al. § (Jointly Administered)
§
Debtor(s). §

**RESPONSE TO DEBTORS' OBJECTION TO JOINT NOTICE OF
DEPOSITION DESIGNATION (RE: DOCKET NO. 300)**

TO THE HONORABLE BRENDA T. RHOADES, U.S. BANKRUPTCY JUDGE:

KRS CARROLLTON, LLC, KRS DALLAS, LLC, KRS FORT WORTH, LLC, and KRS SEGUIN, LLC (collectively, "KRS"), object to the above-captioned motion.

1. Naturally the Debtors don't like the testimony, which includes the critical information that Laurie Beth McPike insisted that uncollectible accounts could not be removed from the a-r records in order to keep the borrowing base high. According to the testimony, there is an estimated \$2 million or more overstatement of the a-r.

17	Q. And do you have an idea about the overall total
18	of the accounts receivable that you were not permitted
19	to write off?
20	A. I don't have an exact total, no, sir.
21	Q. Do you have an estimate?
22	A. At least 2 million.

2. The Debtors also don't like that Ms. Bowers thankfully has not suffered cancer during the time in question and only missed three (3) days of work in recent months due to medical issues. Depo. at p. 30, ln. 4-18, Docket No. 283, p. 32.

3. The deposition testimony is expressly contrary to courtroom testimony of John McPike as to (supposed) problems with billing and the double-down and stomp hard representations of Ms. Boydston.

From: Liz Boydston <lboydston@gutnicki.com>
Date: July 26, 2024 at 9:48:39 AM CDT
To: "Butler, Lynn" <Lynn.Butler@huschblackwell.com>, Max Schlan <mschlan@gutnicki.com>, Alexandria Rahn <arahn@gutnicki.com>
Cc: "Klein, Buffey" <Buffey.Klein@huschblackwell.com>, "Zavala, Tom" <Tom.Zavala@huschblackwell.com>
Subject: RE: Access needed

[EXTERNAL EMAIL]

Lynn,

Jon and LaDonna have been in constant communication and I've seen/been copied on emails. Jon is calling her now to figure out why your email is stating opposite. As stated on the record on Monday, Cindy has cancer and is in the hospital, so yes, Cindy hasn't been made aware of your email nor has she called Ms. Daniel.

From: Liz Boydston <lboydston@gutnicki.com>
Date: July 26, 2024 at 11:09:06 AM CDT
To: "Butler, Lynn" <Lynn.Butler@huschblackwell.com>, Max Schlan <mschlan@gutnicki.com>, Alexandria Rah
Cc: "Klein, Buffey" <Buffey.Klein@huschblackwell.com>, "Zavala, Tom" <Tom.Zavala@huschblackwell.com>
Subject: RE: Access needed

[EXTERNAL EMAIL]

Cancer is very serious. When Cindy learned of her diagnosis, she immediately informed us and put her notice in and telling us that Cindy is trying to help Ms. Daniel. She's been in the hospital and we've stopped asking her to assist us (i.e. to change access) to programs currently, and so he was forced to reach out to Cindy to see if she can help LaD process of being switched from Cindy to the new biller.

Liz Boydston (she/her)
Partner

19 Q. And I certainly want to be respectful of your
20 privacy, but have you been diagnosed with cancer?
21 A. No, I have not.
22 Q. Did you tell John McPike that you had cancer?
23 A. No, I did not.
24 Q. Did you tell Laurie Beth McPike that you had
25 cancer?

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1 A. No, I did not.
2 Q. Anyone else at Remarkable, did you tell anybody
3 else that you had cancer?
4 A. No.
5 Q. Did you tell any attorney for Remarkable that
6 you had cancer?
7 A. No.

4. No response was required to Mr. Schlan on August 2, 2024. Notice was provided, and notice was quickly acknowledged. Mr. Schlan didn't protest the date, time, or manner of notice, no pleading was filed, and the only substance of the response was the further commission of the fundamental falsehood that Ms. Bowers was gravely ill and away from work.

5. In reality, Ms. Bowers had left the employment of the Debtor(s) as of July 26, 2024, the date of the supposed hospitalization in the email exchange excerpted above.

15	Q. And when did your employment end?	
16	A. July 26, 2024.	

6. The witness is not available for the August 9, 2024 hearings, and a deposition was taken without protest to the notice. Deflection, yes, protest, no. In fact, the deposition was scheduled in the afternoon of August 5, 2024 because Mr. Schlan had indicated in reference to a previous inquiry that he was busy that morning.

7. Exactly who perpetuated the falsehood which Mr. Schlan is said to have fallen victim may never be known, but it is a very small circle. In any event, it was not the place of the creditors to correct the misinformation supplied by the Debtors and/or other counsel to Mr. Schlan that was repeated yet again.

8. KRS will present additional argument and/or analysis in the event that a hearing is set on the subject motion or the Court otherwise considers these questions.

WHEREFORE, KRS Carrollton LLC et al. respectfully request that the Court deny the Motion and admit into evidence the entirety of the deposition transcript of Ms. Bowers. Landlords respectfully request such other and further relief to which they are entitled at law or in equity.

Dated: August 8, 2024

Respectfully submitted:

WEYKER, KAPLAN, PULASKI & ZUBER, P.C.

By: /s/ Jeff Carruth
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ATTORNEYS FOR:

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KRS DALLAS, LLC
KRS FORT WORTH, LLC
KRS SEGUIN, LLC

CERTIFICATE OF SERVICE

On August 8, 2024, I hereby certify that a true and correct copy of the foregoing Notice of Appearance was served upon all registered ECF users who have appeared in this case to date through the ECF noticing system.

/s/ Jeff Carruth
JEFF CARRUTH